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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/675,121
Filing Date: September 30, 2003
Appellant(s): MURRAY, F. RANDALL

Robert D. McCutcheon (Reg. No. 38,717)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/07/2011 appealing from the Office action mailed 03/03/2010.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments

The appellant's statement of the status of amendments contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

US Publication No. DALAL et al.

2003/0014488 A1

US Patent No. 6,618,746 B2 DESAI et al.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-9, 11-18, 20-24, and 26-32 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by **Dalal et al. (US Publication No. 2003/0014488 A1)**.

As per claim 1, Dalal teaches a method for call conferencing, comprising: controlling a conference call with a server (**paragraph [0022], Service Provider Conference Controller (SPCC) controls a conference call in an IP session**); detecting an event associated with a conference call the conference call associated with a plurality of participants (**paragraph [0092], where the event may be a telephone user hangs up a conference session with other conference participants**); and communicating one or more instant messages associated with the detected event from the server to one or more of the participants by communicating the instant message to a network device external to the server (**paragraph [0092], where a NOTIFY-HANG-UP request provides alert instant message to the conference participants**).

As per claim 2, Dalal teaches a method wherein the event comprises a chairperson of the conference call joining the conference call (**paragraph [0062], a Creator (chairperson) joins a created conference call**); and the one or more instant messages identify at least one of a number of participants who have joined the conference call and a name of each participant who has joined the conference call (**paragraph [0065]**).

As per claim 3, Dalal teaches a method wherein the one or more instant messages identify at least one of a number of participants who have joined and exited the conference call and a name of each participant who has joined and exited the conference call (**paragraph [0065] and [0068]**), a notification of current conference participants of the membership changes (i.e. Leaving a conference) and name of participant).

As per claim 4, Dalal teaches a method wherein the event comprises one of the participants joining the conference call (**paragraphs [0051] and [0064]**); and the one or more instant messages identify a name of the participant who joined the conference call (**paragraph [0065]**).

As per claim 5, Dalal teaches a method wherein the event comprises one of the participants exiting the conference call; and the one or more instant messages identify a name of the participant who exited the conference call (**paragraph [0078]**).

As per claim 6, Dalal teaches a method wherein the event comprises one of a beginning and an end of the conference call (**paragraph [0035]**); and the one or more instant messages identify that the conference call has one of begun and ended (**paragraphs [0035] and [0069]**).

As per claim 7, Dalal teaches a method wherein the event comprises one of the participants failing to provide a correct pass code when attempting to join the conference call (**paragraph [0036]**); and the one or more instant messages are communicated to a chairperson and identify the participant, an incorrect pass code provided by the participant, and the correct pass code (**paragraph [0036]**).

As per **claim 8**, Dalal teaches a method wherein the event comprises a chairperson of the conference call exiting the conference call (**paragraph [0062], a Creator (chairperson) joins a created conference call**) and the one or more instant messages indicate that the conference call will end after a specified amount of time (**paragraph [0062]**).

As per **claim 9**, Dalal teaches a method wherein the event comprises one of the participants transferring the conference call from one communication device to another communication device (**paragraph [0065] and [0092]**); and the one or more instant messages indicate that the participant transferred communication devices (**paragraph [0065] and [0092]**).

As per **claim 11**, Dalal discloses an apparatus for call conferencing, comprising: one or more ports operable to receive at least one channel of a plurality of channels for a communication session (**paragraph [0079]**), the at least one channel having information from at least two of a plurality of conference call participants (**paragraph [0081]**); and one or more processors collectively operable to: detect an event associated with the conference call (**paragraph [0092], where the event may be a telephone user hangs up a conference session with other conference participants**); and communicate one or more instant messages associated with the detected event from one or more processors to one or more of the participants via a network device external to the one or more processors (**paragraph [0092], where a NOTIFY-HANG-UP request provides alert instant message to the conference participants**).

Claim 12 is substantially the same as **claim 2**, but in apparatus form rather than method form and thus rejected using the same rationale.

Claims 13-18 is substantially the same as **claims 4-9**, but in apparatus form rather than method form and thus rejected using the same rationale.

Claims 20-21 are substantially the same as **claims 1-2** and are thus rejected using the same rationale.

Claims 22-24 are substantially the same as **claims 4-6** and are thus rejected using the same rationale.

As per claim 26, Dalal teaches wherein the one or more SIP messages are communicated directly from the server to the one or more participants (**paragraph [0089]**).

As per claim 27, Dalal teaches wherein, before a conference call begins the server is informed of the one or more participants in the conference call, when the conference call starts the one or more SIP messages indicating the conference call has begun are communicated to each of the one or more participants (**paragraph [0054]**).

As per claim 28, Dalal teaches wherein the one or more participants has associated therewith a plurality of communication device, and the one or more SIP instant messages are sent to each of a plurality of devices (**paragraph [0081]**).

As per claim 29, Dalal teaches wherein the one or more SIP messages are communicated directly from the apparatus to the one or more participants (**paragraph [0089]**).

As per claim 30, Dalal teaches wherein , before a conference call begins the one or more processors are informed of the one or more participants in the conference call, when the

conference call starts the one or more SIP messages indicating the conference call has begun are communicated to each of the one or more participants (**paragraph [0054]**).

As per claim 31, Dalal teaches wherein the one or more SIP messages are communicated directly from the apparatus to the one or more participants (**paragraph [0089]**).

As per claim 32, Dalal teaches wherein the, before a conference call begins the media application server is informed of the one or more participants in the conference call, when the conference call starts the one or more SIP messages indicating the conference call has begun are communicated to each of the one or more participants (**paragraph [0054]**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10, 19, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalal in view of Desai et al. (**U.S. Patent No. 6,618,746 B2, hereinafter Desai**).

As per exemplary claim 10, Dalal discloses the invention substantially as claimed. Dalal teaches the event comprises an end to the conference call (**paragraph [0035] and [0069]**).

However, Dalal does not explicitly teach wherein the one or more SIP instant messages comprise a survey; and further comprising: receiving one or more responses from one or more of

the participants containing answers to the survey; tabulating the answers; and communicating one or more SIP messages containing the tabulated answers to a chairperson of the conference call.

Desai teaches a survey and the one or more processors are further collectively operable to receive one or more responses from one or more of the participants containing answers to the survey (**receiving answers to a questionnaire**); tabulate the answers (**retrieving the analysis and performing the statistical analysis**); and communicate one or more instant messages containing the tabulated answers to a chairperson of the conference call (**Abstract, col. 3, lines 43-67**).

Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Dalal's telecommunication's conferencing system to the teachings of Desai, for the purpose of providing a means for feedback from a networked communication session and its participants. Furthermore, enabling a survey allows "gathering of information across a network quickly and efficiently," (Abstract).

Claims 19 and 25 are rejected using the same rationale.

(10) Response to Argument

Applicant's arguments with respect to claims 1-32 have been considered but are not persuasive.

A) "However, the Office Action does not address the following claim language and fails to point to any portion of the Dalal to support a finding of anticipation: 1. generating at the server one or more instant messages; 2. the one or more instant messages having a Session

Initiation Protocol (SIP) format; communicating the one or more SIP instant messages from the server to one or more of the plurality of participants.”

As to the above point A), Examiner respectfully disagrees. Examiner submits that Dalal clearly discloses a VoIP-PSTN GATEWAY that generates a NOTIFY-HANG-UP message. Given the broadest reasonable interpretation, the disclosed notification message has been interpreted as an instant message, where the NOTIFY-HANG-UP message is communicated via the SPCC to the conference participants (i.e. “alerts the conference participants of the membership change...” See paragraph [0092]). Examiner submits that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993). Examiner suggests Applicant’s amend the instant claim language to define what constitutes an instant message and furthermore, how such instant message is communicated from the server to the plurality of participants.

B) “In addition, nowhere in the cited paragraph [0092] is there any description or teaching that the “alert” –whatever that may be-is in a SIP format.”

As to the above point B), Examiner respectfully disagrees. See paragraphs [0006] and [0089], where Dalal clearly discloses the preferred embodiment of the invention in which both the SM in the PSTN PROXY and VoIP-PSTN support SIP.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Joiya M. Cloud

March 21, 2011
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